In the High Court of Judicature at Madras

Dated: 23.03.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal No.3486 of 2004

1.Manoharan

2.Kuppusami .. Appellants

Vs

1.The State of Tamil Nadu,
rep. by the Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Madras-9.

2.The Executive Engineer and
Administrative Officer,
Salem Housing Unit,
Ayyan Thirumaligai Road, Salem.

3.The Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Ayyan Thirumaligai Road, Salem-8. .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.03.2004 made in W.P.No.5441 of 1996. The Writ Petition filed under article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records on the file of the respondent in G.O. Ms. No. 755 dated 04.09.1981 issued under Section 4 of the Land Acquisition Act and in G.O. Ms. NO. 608 dated 03.08.1984 and quash the same

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For Appellants : Mr.V.Raghavachari
For Respondents 1 & 3 : Mr.P.Subramanian, Govt.Advocate

For Respondent-2 : Mr.Kasi Kumar

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

Aggrieved by the order of the learned single Judge dated 10.03.2004 made in W.P.No.5441 of 1996, the writ petitioners have preferred the above appeal.

2. The matter relates to acquisition of land for construction of houses under the Salem Neighbourhood Scheme at the instance of the Tamil Nadu Housing Board.

3. Mr.V.Raghavachari, learned counsel appearing for the appellants, mainly contended that even though the appellants purchased the land in question as early as on 23.03.1981 and that their vendor also informed the Land Acquisition Officer about the sale of the lands to the appellants, they were not afforded with an opportunity to put forth their case in the enquiry conducted under Section 5-A of the Act.

4. It is not in dispute that though they have purchased the land on 23.03.1981, there was no mutation in the revenue records mentioning their names. In such circumstances, the Land Acquisition Officer based on the entries available in the revenue records, issued notice to the vendor of the appellants. Though their vendor appeared, the record shows that there was no specific information as to the details of the purchaser. In such circumstances, we are of the view that the Land Acquisition Officer cannot be blamed for not sending notice to the petitioners/appellants for the enquiry under Section 5-A of the Land Acquisition Act.

5. It is relevant to point out that the appellants themselves made a representation on 01.03.1983, wherein highlighted their grievance including construction of building by them and prayed for a higher compensation. It is brought to our notice that, in the award enquiry, though notice was issued to all the persons including the appellants, both of them did not appear and the files produced by the Government Pleader show that the notice was served by affixture. It is also brought to our notice that though the names of the appellants were shown in the declaration under Section 6 of the Land Acquisition Act, the fact remains that they did not choose to verify and pursue further as to the steps taken by the Housing Board in respect of acquisition of their land. Admittedly, they filed the writ petition only in the year 1996 i.e., on 2.4.1996. The particulars furnished by the respondent show that the award came to be passed on 19.09.1986 and possession was taken by the Housing Board on 12.11.1986. It

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is further brought to our notice that, pursuant to the same, the lay out plan was approved by the competent authority on 25.10.1994. Though the learned counsel appearing for the appellants maintained that possession is still with them, in view of the fact that the award was passed in the year 1986 and lay out plan was approved in the year 1994 and also of the fact that the writ petition came to be filed only in the year 1996, we are not in a position to accept the claim of the appellants.

6. Though the learned counsel appearing for the appellants as well as the respondents referred to several decisions in support of their claim, in view of the factual information that there was no change of name in the revenue records even after the purchase in the year 1981, and of the fact that the writ petition came to be filed nearly 10 years after passing of the award, we are of the view that there is no need to refer to all those decisions. The learned single Judge rightly dismissed the writ petition on the ground of laches. We are in agreement with the said conclusion. Consequently, the writ appeal fails and the same is dismissed. No costs.

7. In view of the assertion of the appellants and the statement that they constructed the building and are residing therein, they are permitted to make a representation to the Government within a period of two weeks from the date of receipt of a copy of this order. If such representation is made within the time stipulated, the first respondent-Secretary to Government, Housing and Urban Development Department, Fort St. George, Madras-9, is directed to consider and dispose of the same in accordance with law within a period of eight weeks from the date of receipt of such representation. Till such order/decision being taken by the Government, the respondents are directed not to interfere with the enjoyment of the appellants. We are constrained to pass the above direction taking note of the photographs shown to us at the time of hearing of the matter.
Raa

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Madras-9.

2.The Executive Engineer and
Administrative Officer, Salem Housing Unit,
Ayyan Thirumaligai Road, Salem.

3.The Special Tahsildar, Land Acquisition,
Neighbourhood Scheme,
Ayyan Thirumaligai Road, Salem-8.

+ one cc to Mr. V. Raghavachari, Advocate sr no. 18255
+ one cc to Mr. K. Chelladurai, Advocate sr no. 18187
+ one cc to the Government Pleader sr no. 18416

rs(co)
nm(02.04.07)

W.A. No.3486 of 2004

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